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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,962	11/15/2000	Alain T. Rappaport	04239.P002	5197
20995	7590	03/02/2006	EXAMINER FRENEL, VANEL	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			ART UNIT 3626	PAPER NUMBER

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/713,962	RAPPAPORT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vanel Frenel	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 September 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/29/05 has been entered.

### **Notice to Applicant**

2. This communication is in response to the Amendment filed on 09/29/05. Claims 1, 9, 12, 18, and 21 have been amended. Claims 1-21 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montlick (5,561,446) in view of Uchiyama et al (6,485,415).

(A) As per claim 1, Montlick discloses a method of communicating healthcare information, the method comprising: generating a set of codes each corresponding to

respective healthcare data “the healthcare data including a plurality of medical diagnoses each of which corresponds to at least one code (See Montlick, Col.5, lines 64-67); storing the set of codes (See Montlick, Col.10, lines 6-30); displaying at least some of the set of codes and at least some of the medical diagnoses on a display of the portable terminal (See Montlick, Fig.2, Col.5, lines 54-61); detecting selection by a user of at least one code corresponding to a medical diagnosis relevant to a patient (See Montlick, Col.5, lines 64-67).

Montlick does not explicitly disclose that the method having the medical diagnoses in a memory a portable terminal; and

wirelessly transmitting the selected at least one code from the portable terminal to a server system via a first network capable of providing communication between the portable terminal and the server system, wherein said wirelessly transmitting causes the healthcare data corresponding to the code to be provided to a medical patient via a second network capable of providing communication between the server system and a patient accessible device.

However, these features are known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the method having a portable terminal (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56);

wirelessly transmitting the selected at least one code from the portable terminal to a server system via a first network capable of providing communication between the portable terminal and the server system, wherein said wirelessly transmitting causes the healthcare data corresponding to the code to be provided to a medical patient via a

second network capable of providing communication between the server system and a patient accessible device (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(B) As per claim 2, Montlick discloses the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code (See Montlick, Col.5, lines 10-20).

Montlick does not explicitly disclose that the method wherein the portable terminal is a cellular telephone having an on-board memory, and an HCPCS/PCT code" stored in the on-board memory.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the method wherein the portable terminal is a cellular telephone having an on-board memory, and an HCPCS/PCT code" stored in the on-board memory (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be

diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(C) As per claim 3, Montlick discloses the method wherein the code is transmitted via a first, wireless network (See Montlick, Col.5, lines 10-20).

(D) As per claim 4, Montlick discloses the method of claim 3 wherein the first, wireless network is one of a CDMA network, a GSM network, a TDMA network and a CPDP network (The Examiner understands that Montlick teaches a spread-spectrum wireless network which has the same performance and usage in a digital cellular phone. In other words, the spread-spectrum is equivalent to the CDMA network that Applicant's is referring to. See Col.5, lines 10-20).

(E) As per claim 5, Montlick discloses the method wherein the recipient is a gateway that connects the first, wireless network to a second network (See Montlick, Col.3, lines 14-16).

(F) As per claim 8, Montlick discloses the method wherein the healthcare data corresponding to the transmitted code is associated with corresponding healthcare

information in a database, and wherein said corresponding healthcare information is transmitted to an end user via the second network (See Montlick, Col.3, lines 14-67).

(G) As per claim 9, Montlick discloses apparatus for communicating healthcare information, the apparatus comprising:

a portable terminal to communicate wirelessly with a server system via a first, wireless network (See Montlick, Col.3, lines 10-36);

a memory, associated with the portable terminal, to store a set of codes and medical diagnoses, each code corresponding to a medical diagnosis relating to healthcare data (See Montlick, Col.10, lines 6-30);

a display to display the set of codes and the medical diagnoses (See Montlick, Fig.2; Col.5, lines 54-61);

a selector operable by a user to select desired codes of the set of codes for transmission to the server system, the desired codes identifying a medical condition (See Montlick, Col.9, lines 37-47).

Montlick does not explicitly disclose that the apparatus wherein transmission of the desired codes causes corresponding healthcare data to be provided to a medical patient via a second network, wherein the second network is adapted to provide communication between the server system and a patient accessible device.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the apparatus wherein transmission of the desired codes causes corresponding healthcare data to be provided to a medical patient via a second

network, wherein the second network is adapted to provide communication between the server system and a patient accessible device (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(H) As per claim 10, Montlick discloses "the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code, and an HCPCS/PCT code" (See Col.5, lines 10-20).

Montlick does not explicitly disclose the method wherein the portable terminal is a cellular telephone and the memory is an on-board memory of the cellular telephone.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the method wherein the portable terminal is a cellular telephone and the memory is an on-board memory of the cellular telephone (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with

the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(I) As per claim 12, Montlick discloses a system for communicating healthcare information, the system comprising:

at least one portable terminal to communicate wirelessly with a gateway via a first, wireless network, the portable terminal including a memory associated therewith for storing a set of codes, and medical diagnoses, each code corresponding to respective healthcare data including medical diagnoses (See Montlick, Col.10, lines 6-30);

a display for displaying the set of codes and the medical diagnoses, each code identifying a medical diagnosis (See Montlick, Fig.2; Col.5, lines 54-61); and

a selector operable by a first user to select a medical diagnosis for transmission as a corresponding code to the recipient (See Montlick, Fig.2; Col.5, lines 54-61); and

a first server to communicate with the gateway device and to communicate healthcare information to a second user via a second network (See Montlick, Col.3, lines 14-67);

Montlick does not explicitly disclose that the system wherein the healthcare information is related to the corresponding code; wherein the gateway device is capable

of facilitating communication between said at least one portable terminal and the first server.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the system wherein the healthcare information is related to the corresponding code; wherein the gateway device is capable of facilitating communication between said at least one portable terminal and the first server (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(J) As per claim 13, Montlick discloses "the set of codes being one of an ICD-9CM diagnosis code, an ICD-10CM diagnosis code, and an HCPCS/PCT code" (See Col.5, lines 10-20).

Montlick does not explicitly disclose the method wherein the portable terminal is a cellular telephone and the memory is an on-board memory of the cellular telephone.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the method wherein the portable terminal is a

cellular telephone and the memory is an on-board memory of the cellular telephone (See Uchiyama, Col.3, lines 11-20; Col.4, lines 47-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(K) As per claim 15, Montlick discloses the system wherein the first, wireless network is one of a CDMA network, a GSM network, a TDMA network and a CPDP network (The Examiner understands that Montlick teaches a spread-spectrum wireless network which has the same performance and usage in a digital cellular phone. In other words, the spread-spectrum is equivalent to the CDMA network that Applicant's is referring to. See Col.5, lines 10-20).

(L) As per claim 17, Montlick discloses the system further comprising a second, application server with an associated database storing healthcare information associated with the codes, the gateway being arranged to communicate with the first server via the application server, thereby to retrieve healthcare information from the

database corresponding to received codes and to transmit the healthcare information to an end user via the second network (See Montlick, Col.3, lines 14-67).

(M) As per claim 18, Montlick discloses a system for communicating healthcare information, the system comprising:

a gateway device to communicate wirelessly with at least one portable terminal via a first, wireless network and with a first server, to receive codes from said at least one portable terminal selected from a set of codes each corresponding to respective healthcare data, and to transmit healthcare information corresponding to the received codes to the first server (See Montlick, Col.3, lines 14-67);

a first server to communicate with the gateway device, to receive the healthcare information from the gateway device and to communicate the healthcare information to a patient on which diagnosis was performed via a second network (See Montlick, Col.3, lines 14-67).

Montlick does not explicitly disclose that the system wherein the second network is capable of providing communication between the first server and a patient accessible device.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests that the system wherein the second network is capable of providing communication between the first server and a patient accessible device (See Uchimaya, Col.4, lines 5-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

(N) As per claim 19, Montlick discloses the system further comprising a second, application server with an associated database to store healthcare information associated with the codes, the gateway being arranged to communicate with the first server via the second, application server, thereby to retrieve healthcare information from the database corresponding to the received codes and to transmit the retrieved healthcare information to the end user via the second network (See Montlick, Col.3, lines 14-67).

(O) As per claim 21, Montlick discloses a machine-readable medium comprising instructions which, when executed by a machine, cause the machine to perform operations comprising: generating a display of a set of codes and medical diagnoses on a portable terminal, each code corresponding to respective healthcare data, the healthcare data including the medical diagnoses each of which corresponds to at least

one code (See Montlick, Col.5, lines 10-20); detecting selection of at least one code corresponding to healthcare data relevant to a patient (See Montlick, Col.3, lines 14-67).

Montlick does not explicitly disclose wirelessly transmitting the selected at least one code to a server system via a first network capable of providing communication between the portable terminal and a server system, wherein said wirelessly transmitting causes at least some of the healthcare data to be provided to the patient via a second network capable of providing communication between the server system and a patient accessible device.

However, this feature is known in the art, as evidenced by Uchiyama. In particular, Uchiyama suggests wirelessly transmitting the selected at least one code to a server system via a first network capable of providing communication between the portable terminal and a server system, wherein said wirelessly transmitting causes at least some of the healthcare data to be provided to the patient via a second network capable of providing communication between the server system and a patient accessible device (See Uchimaya, Col.4, lines 5-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Uchiyama within the system of Montlick with the motivation of providing a medical monitoring system wherein a subject to be diagnosed is located outside medical facilities, the subject being, for example, a patient residing at home, or a driver or an operator on railway vehicles, vessel, or an aircraft, and the organic information of the subject is detected to watch over the health thereof (See Uchiyama, Col.1, lines 5-11).

4. Claims 6-7, 11, 14, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montlick, Uchimaya et al (6,485,415) in view of Gershman et al (6,199,099).

(A) As per claims 6, 16 and 20, Montlick discloses the method wherein the second network (See Montlick, Col.3, lines 14-67).

Montlick does not explicitly disclose that the method comprises the Internet/World Wide Web.

However, this feature is known in the art, as evidenced by Gersman. In particular, Gersman teaches an Internet/World Wide Web (See Gersman, Col.2, lines 56-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Gersman within the collective teachings of Montlick and Uchimaya with the motivation of providing WAP, a standard way to put data capability into wireless phones, and allowed carriers to do more over-the-air management (See Gersman, Col.1, lines 52-56).

(B) As per claim 7, Montlick discloses the method wherein the code (See Montlick, Col.5, lines 10-20).

Montlick does not explicitly disclose that the method is transmitted using Wireless Mark-up Language (WML).

However, this feature is known in the art, as evidenced by Gersman. In particular, Gersman teaches a Wireless Mark-up Language (WML) which can also be a Wireless Application Protocol in order to view on handheld devices with small screens, such as cell phones (See Gersman, Col.1, lines 45-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Gersman within the collective teachings of Montlick and Uchiyama with the motivation of providing WAP, a standard way to put data capability into wireless phones, and allowed carriers to do more over-the-air management (See Gersman, Col.1, lines 52-56).

(C) As per claims 11 and 14, Joao discloses the apparatus wherein the cellular telephone (See Joao, Col.14, lines 49-58).

Montlick and Uchiyama do not explicitly disclose that the apparatus is a WAP-enabled telephone arranged to transmit the selected codes via the first, wireless network utilizing a WAP protocol.

However, this feature is known in the art, as evidenced by Gersman. In particular, Gersman teaches that the apparatus is a WAP-enabled telephone arranged to transmit the selected codes via the first, wireless network utilizing a WAP protocol (See Gersman, Col.1, lines 45-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Gersman within the collective teachings of Montlick and Uchiyama with the motivation of providing WAP, a standard way to put

data capability into wireless phones, and allowed carriers to do more over-the-air management (See Gersman, Col.1, lines 52-56).

### **Response to Arguments**

5. Applicant's arguments filed on 09/29/05 with respect to claims 1, 9, 12, 18 and 21 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on Monday-Thursday from 6:30 am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F  
V.F

December 8, 2005



JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER